

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

## **SENATE CONCURRENT MEMORIAL 1008**

### A CONCURRENT MEMORIAL

URGING THE CONGRESS OF THE UNITED STATES TO REPEAL THE REAL ID ACT OF 2005 AND TO ALLOW STATES TO CREATE A DUAL PURPOSE LICENSE THAT DOES NOT INCLUDE WIRELESS TECHNOLOGY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 To the Congress of the United States of America:

2 Your memorialist respectfully represents:

3 Whereas, in May 2005, the United States Congress enacted the REAL ID  
4 Act of 2005 (REAL ID Act), which was signed by President Bush on May 11, 2005  
5 and becomes fully effective May 11, 2008; and

6 Whereas, use of the federal minimum standards for state driver licenses  
7 and state-issued identification cards will be necessary for any type of  
8 federally regulated activity for which an identification card must be  
9 displayed, including flying in a commercial airplane, making transactions  
10 with a federally licensed bank, entering a federal building or making  
11 application for federally supported public assistance benefits, including  
12 Social Security; and

13 Whereas, some of the intended privacy requirements of the REAL ID Act,  
14 such as the use of common machine-readable technology and state maintenance  
15 of a database that can be shared with the United States and agencies of other  
16 states and other countries, may actually make it more likely that a federally  
17 required driver license or state identification card, or the information  
18 about the bearer on which the license or card is based, will be stolen, sold  
19 or otherwise used for purposes that were never intended or that are  
20 criminally related than if the REAL ID Act had not been enacted; and

21 Whereas, these potential breaches in privacy that could result directly  
22 from compliance with the REAL ID Act may violate the right to privacy of  
23 thousands of residents of Arizona, as secured by article II, section 8 of the  
24 Arizona Constitution; and

25 Whereas, the American Association of Motor Vehicle Administrators, the  
26 National Governors' Association and the National Conference of State  
27 Legislatures have estimated, in an impact analysis dated September 2006, that  
28 the cost to the states to implement the REAL ID Act will be more than \$11  
29 billion over 5 years, and the Arizona Department of Transportation has  
30 estimated that the full implementation of the REAL ID Act will cost Arizona  
31 more than \$60 million, none of which will be paid for by the federal  
32 government; and

33 Whereas, the implementation of the REAL ID Act intrudes on the states'  
34 sovereign power to determine their own policies for identification, licensure  
35 and credentialing of individuals residing therein; and

36 Whereas, the REAL ID Act converts the state driver licensing function  
37 into federal law enforcement and national security functions that are outside  
38 the purpose and core competency of driver licensing bureaus; and

39 Whereas, the REAL ID Act constitutes an unfunded mandate by the federal  
40 government to the states; and

41 Whereas, the REAL ID Act wrongly coerces states into doing the federal  
42 government's bidding by threatening to refuse noncomplying states' citizens  
43 the privileges and immunities enjoyed by other states' citizens; and

1       Whereas, the REAL ID Act imposes a national identification system  
2 through the states premised on the threat to national security, but without  
3 the benefit of public debate and discourse; and

4       Whereas, the regulations that have been adopted by the Department of  
5 Homeland Security to implement the requirements of the REAL ID Act are  
6 open-ended and left to the whim of Secretary Chertoff; and

7       Whereas, the mandate to the states, through federal legislation that  
8 provides minimal funding for its requirements, to issue what is, in effect, a  
9 national identification card appears to be an attempt to "commandeer" the  
10 political machinery of the states and to require them to be agents of the  
11 federal government, in violation of the principles of federalism contained in  
12 the 10<sup>th</sup> Amendment to the United States Constitution; and

13      Whereas, security and privacy risks associated with RFID-enabled  
14 identification cards have been well documented by the Government  
15 Accountability Office. Threats such as skimming, eavesdropping and tracking  
16 occur when an unauthorized individual with a RFID reader wirelessly gathers  
17 information from a RFID chip without the cardholder's knowledge or consent;  
18 and

19      Whereas, the time needed to incorporate such RFID chips into passports  
20 has also been partly responsible for the long delays citizens have been  
21 forced to endure waiting for new passports. This has resulted in thousands  
22 of cases where travel has been cancelled or rescheduled, often at significant  
23 financial business loss and inconvenience to travelers. The high costs of  
24 passports and these delays have led the federal government to ask states to  
25 create so called "dual purpose driver licenses", a driver license/passport  
26 hybrid that would negate the need for citizens to use a federal passport for  
27 travel within much of the Western Hemisphere. This places a burden on the  
28 states to solve a problem the federal government both created and has failed  
29 to properly administer, turning a state's driver license into a federalized  
30 document; and

31      Whereas, unlike a passport, a driver license is commonly carried on a  
32 citizen's person in all places at all times, making the inclusion of embedded  
33 RFID particularly undesirable; and

34      Whereas, RFID chips bring little net value to passports or driver  
35 licenses once a true cost benefit analysis has been completed that includes  
36 the cost of equipment, security issues, privacy risks and identity theft; and

37      Whereas, the Congress must live up to its constitutional responsibility  
38 and ensure that citizens' security and privacy are protected by reexamining  
39 the RFID requirements in passports and eliminating the necessity of their  
40 incorporation into dual purpose driver licenses.

41 Wherefore your memorialist, the Senate of the State of Arizona, the House of  
42 Representatives concurring, prays:

43      1. That the United States Congress and the United States Department of  
44 Homeland Security suspend implementation of the REAL ID Act.

1       2. That the United States Congress repeal the REAL ID Act to avoid the  
2 significant problems it currently poses to state sovereignty, individual  
3 liberty and limited government.

4       3. That the United States Congress adopt new rules allowing states to  
5 establish a dual purpose license that does not have to include wireless  
6 technology, and take necessary steps to ensure a more affordable and fully  
7 functioning United States passport system.

8       4. That the Secretary of State of the State of Arizona transmit a copy  
9 of this Memorial to the Secretary of the United States Department of Homeland  
10 Security, the President of the United States Senate, the Speaker of the  
11 United States House of Representatives and each Member of Congress from the  
12 State of Arizona.